IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 32387 of 2007(E)

PETITIONER:

B.GEETHA KUMAI,LOWER PRIMARY SCHOOL
ASSISTANT AM LOWER PRIMARY SCHOOL
KUNDIL PARAMBU, VEGARA SUB DISTRICT
MALAPPURAM DISTRICT.AGED 41 YEARS,
W/O.SRI G.MURALEEDHARAN,RESIDING AT KUNDILPARAMBA
THENNALA PO, MALAPPURAM DISTRICT-676511.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE
   SECRETARY, DEPARTMENT OF GENERAL EDUCATION (T)
   GOVT. SECRETARIAT, TRIVANDRUM 695 001.

2. DIRECTOR OF PUBLIC INSTRUCTIONS,
   TRIVANDRUM.

3. DISTRICT EDUCATION OFFICER,TIRUR
   MALAPPURAM DISTRICT.

4. ASSISTATANT EDUCATION OFFICE,
   VENGARA SUB DISTRICT, MALAPPURAM DISTRICT.

5. SMT.BLESSINA C.MATHAI, UPSA,
   AM LPS,KUNDIL PARAMBU,VENGARA SUB DISTRICT,
   MALAPPURAM DISTRICT.

6. THE MANAGER, AMLP SCHOOL, KUNDIL
   PARAMBU, VENGARA SUB DISTRICT,
   MALAPPURAM DISTRICT.

G.P. SHRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.32387 of 2007

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Dated this the 1st day of November, 2007

J U D G M E N T

The petitioner is a Lower Primary School Assistant in the A.M.L.P. School, Kundil Parambu, Malappuram District. She is aggrieved by denial of promotion as Headmistress as also the appointment of the 5th respondent as the headmistress of the school. The petitioner raises two contentions. The first is that, as the senior-most qualified LPSA of the school, she is entitled to be promoted in preference to the 5th respondent who is admittedly junior to the petitioner. The second is that the 5th respondent being a B.Ed. graduate and under Rule 45A of Chapter XIV A of the KER, the qualification prescribed being TTC, the 5th respondent is not qualified to be so promoted. Regarding the second contention, the petitioner relies on the decision of this court in ***Gopalakrishnan v. Director of Public Instruction*** [2005(4) KLT 774].

2. I have considered the arguments of the learned counsel for the petitioner.

3. Admittedly, one of the qualifications prescribed for

promotion as headmaster of an L.P. School is pass in Account Test (Lower). The vacancy of headmistress of the school arose on 1.5.2006. Going by Ext.P1 certificate issued by the Kerala Public Service Commission on 24.11.2006, the petitioner passed Account Test (Lower) in the examination conducted by the Public Service Commission in June, 2006. That being so, as on the date of occurrence of the vacancy, namely, 1.5.2006, which is the date to be reckoned for the purpose of deciding qualification of the claimant for promotion, the petitioner was not qualified to be promoted as headmistress. Regarding the second contention, in the Full Bench decision of this court in ***S.N.D.P. L.P. School v. Roy*** reported in 2006 (4) KLT 497, this court has held that B.Ed. holders are also entitled to be promoted as headmistress overruling the decision in *Gopalakrishnan's case* (supra). In view of the above findings, there is no merit in the writ petition and accordingly, the same is dismissed.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.